



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/637,387	08/11/2000	Amy Haugen	2829-140	8884

6449 7590 11/23/2004

ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON, DC 20005

EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 11/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Unacceptable Appeal Brief

The Brief, filed on August 30, 2004, contains claims, namely claims 16-29, that were submitted along with claims 1-15 and 30 in response to the Non-Final Action, under 37 CFR 1.111. However, newly added claims 16-29 were **restricted by Original Presentation** for disclosing a different invention. In this case, claims 16-29 cannot be included in the Brief. In other words, the argument as to whether or not claims 16-29 disclose a different invention is not an **Appealable matter**; it is rather a **Petitionable matter** (See MPEP 1201, 37 CFR 1.144 and 1.181). Therefore, the Brief is deemed **Defective or Unacceptable**. Applicant is required to withdraw claims 16-29 and any associated remarks from the Brief before an Examiner's Answer can be issued. A short statutory period (30 days or a month) is herein being given to respond to this correspondence.

Conclusion

Any inquiry concerning this communication from the Examiner should be directed to Jean D. Janvier, whose telephone number is (703) 308-6287). The aforementioned can normally be reached Monday-Thursday from 10:00AM to 6:00 PM EST. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Mr. Eric W. Stamber, can be reached at (703) 305- 8469.

For information on the status of your case, please call the help desk at (703) 308-1113. Further, the following fax numbers can be used, if need be, by the Applicant(s):

After Final- 703-872-9327

Before Final -703-872-9326

Application/Control Number: 09/637,387

Page 3

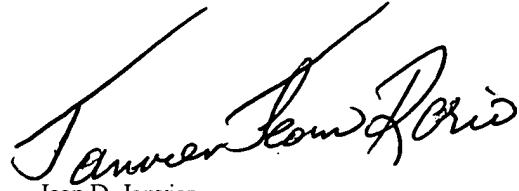
Art Unit: 3622

Non-Official Draft- 703-746-7240

Customer Service- 703-872-9325

JDJ

11/17/04

A handwritten signature in black ink, appearing to read "Jean D. Janvier", written in a cursive style.

Jean D. Janvier

Patent Examiner

Art Unit 3622